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EXAMINER	
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ART UNIT	PAPER NUMBER
1623	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
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ADVISORY ACTION

Continuation of 5. The proposed amendments AFTER FINAL, filed 2 Nov 2009, will be entered because they present rejected claims in better form for consideration on appeal.

Rejections Withdrawn

Applicant's Amendment AFTER FINAL, filed 2 Nov 2009, with respect to claims 1, 3, 4 and 7-9 are rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement has been fully considered and is persuasive, as the proposed amendments AFTER FINAL recite "pharmaceutically acceptable salts thereof" and will be entered.

This rejection has been **withdrawn**.

Continuation of 11.

The following grounds of rejection, detailed in the Office Action mailed 5 Aug 2009, are maintained.

Claim Rejections - 35 USC § 103

Amended Claims 1, 3, 4 and 7-8 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Armour et al. (Arthritis and Rheumatism, 2001, 44(9), p2185-2192, provided by applicant as reference AN in IDS filed 08 Oct 2004) in view of Jang et al. (Free Radical Biology & Medicine, 1998, 24(9), p1511-1519, of record).

Applicant's Remarks, filed filed 2 Nov 2009, have been fully considered and found not to be persuasive.

Applicant notes that at page 1516, right column, Jang teaches decreasing PGE2 and NO in a combination therapy may be beneficial. However, Jang teaches at paragraph 2 of the section *NO and cyclooxygenase* at page 1516, right column, it was also shown that exogenous NO donors had little effect on ovine COX preparations. This suggests the teaching of Jang of decreasing PGE2 and NO is drawn to the action of endogenous NO synthesis at the cellular level of COX expression, not to exogenous NO donors.

Applicant notes that Jang teaches that there is evidence for both protective and deleterious effects of nitric oxide (NO) in arthritis. However, Jang explicitly teaches the data suggests that NO is protective "at least for the cartilage matrix" while acknowledging "the 'janus faces' of NO" (page 1517, section Concluding Remarks spanning left column and right column). Therefore the teaching of Jang provides guidance for one of ordinary skill in the art for the treatment that is protective for the cartilage matrix by administration of NO. That Jang might criticize or discourage the effect of NO for other treatments because of those deleterious effects taught by Jang does not teach away from the effect of NO that is protective for the cartilage matrix taught by Jang. Therefore the teaching of Jang is found to provide guidance to one of ordinary skill in the art for treatment that is protective for the cartilage matrix by administration of exogenous NO donors.

Therefore this rejection is **maintained**.

Amended Claim 9 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Armour et al. (Arthritis and Rheumatism, 2001, 44(9), p2185-2192, provided by applicant as reference AN in IDS filed 08 Oct 2004) in view of Jang et al. (Free Radical Biology & Medicine, 1998, 24(9), p1511-1519, of record) as applied to claims 1, 3, 4 and 7-8 above, and further in view of Gabalawy et al. (Arthritis Res. 2002, 4 (suppl 3), pS297-S301, published 09 May 2002, of record).

Applicant's Remarks, filed filed 2 Nov 2009, have been fully considered and found not to be persuasive.

Applicant's remarks with regard to Armour et al. in view of Jang et al. is addressed as above.

Therefore this rejection is **maintained**.